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Of Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN BUFFUM and KRISTINE BUFFUM,
husband and wife,

Case No. 3:15-cv-05613-DWC

Plaintiffs,

v.

**DEFENDANTS' SECOND AMENDED
ANSWER TO PLAINTIFFS' AMENDED
COMPLAINT**

EJB FACILITIES SERVICES, a foreign joint
venture; and LARRY CARTER and JANE DOE
CARTER, husband and wife, and the marital
community composed thereof,

Defendants.

Defendants EJB Facilities Service and Carter file this Second Amended Answer to
plaintiffs' Amended Complaint.

1.

Defendants admit paragraphs 1.1 through 1.8.

2.

With regard to paragraphs 2.1 through 2.8, defendants admit that jurisdiction and venue
are proper in the above entitled Court.

3.

With regard to paragraph 3.1, defendants admit and deny the realleged paragraphs as set forth above.

4.

Defendants admit paragraphs 3.2 and 3.3.

5.

With regard to paragraph 3.4, defendants admit that on September 6, 2012, Larry Carter was employed by EJB Facilities Services. Defendants deny that Larry Carter was employed as a truck driver.

6.

Defendants admit paragraphs 3.5 and 3.6 of plaintiffs' Amended Complaint.

7.

With regard to paragraphs 3.7 and 3.8, defendants admit that Larry Carter was driving and flatbed truck and stopped behind Mr. Torrance's vehicle. Defendants further admit that after being waived around Mr. Torrance's vehicle by plaintiff John Buffum, Carter attempted to drive around Mr. Torrance's truck and in the process struck Mr. Buffum who was standing next to Mr. Torrance's truck. Defendants deny anything in paragraphs 3.7 and 3.8 except as expressly admitted above.

8.

Defendants admit paragraphs 3.9 and 3.10 of plaintiffs' Amended Complaint.

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9.

With regard to paragraph 3.11, defendants admit that Larry Carter was negligent in striking plaintiff John Buffum as he tried to drive around Mr. Torrance's vehicle as described above.

10.

With regard to paragraph 4.1, defendants admit and deny the realleged paragraphs as set forth above.

11.

With regard to paragraph 4.2, defendants admit that plaintiff was injured but deny the nature and extent of the injuries alleged.

12.

With regard to paragraph 4.3, defendants admit that the accident occurred in part due to the negligence of Larry Carter.

13.

With regard to paragraphs 4.4 through 4.13, defendants admit that Larry Carter was negligent in striking plaintiff John Buffum and that his negligence was in part the cause of injuries to plaintiff John Buffum. Defendants deny that Larry Carter was the sole cause of injuries to plaintiff John Buffum as plaintiff John Buffum he was contributorily negligent/comparatively at fault for his own injuries as set forth below. Defendants also deny the nature and extent of the plaintiffs' alleged injuries.

14.

With regard to paragraph 5.1, defendants admit and deny the realleged paragraphs as set forth above.

15.

Defendants deny paragraph 5.2

16.

Defendants deny each and every other material allegation in the Amended Complaint except those paragraphs specifically admitted above.

BY WAY OF FURTHER ANSWER, AND AS AN AFFIRMATIVE DEFENSE, and without admitting any matters previously denied, defendants allege as follows:

17.

(First Defense – Contributory Negligence/Comparative Fault)

Plaintiff John Buffum was contributorily negligent/comparatively at fault in causing his injuries because he initiated a conversation with Hans Torrance in an unsafe location in the middle of the road, waived defendant Larry Carter around the vehicle of Hans Torrance while he remained in an unsafe location, failed to move to the passenger side of the vehicle which was a safer location, and failed to follow to Mr. Torrance's recommendation to move the conversation to a safer location.

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WHEREFORE, having fully answered plaintiffs' complaint, defendants pray for relief as follows:

- (a) That plaintiffs' complaint be dismissed with prejudice and that they take nothing;
- (b) That defendants recover their costs and disbursements incurred herein;
- (c) For other relief that the Court may deem just and equitable.

DATED: August 3, 2016.

HITT HILLER MONFILS WILLIAMS LLP

By: 
Scott T. Schauermann, WSBA No. 26785

TRIAL ATTORNEY: Scott T. Schauermann

DECLARATION OF SERVICE

I declare under penalty of perjury that I served the foregoing **DEFENDANTS' SECOND AMENDED ANSWER TO PLAINTIFFS' AMENDED COMPLAINT** on:

Michael E. McAleenan
Smith Alling, P.S.
1501 Dock Street
Tacoma, WA 98402
Attorney for Plaintiffs

by the following indicated method or methods:

- ☒ [X] by **MAILING** a full, true, and correct copy thereof in a sealed first-class postage-prepaid envelope, addressed to the attorney as shown above, the last-known office address of the attorney, and deposited with the United States Postal Service at Portland, Oregon, on the date set forth below.
- ☐ [] by causing full, true, and correct copy thereof to be **HAND-DELIVERED** to the attorney at the attorney's last-known office address listed above on the date set forth below.
- ☐ [] by sending a full, true, and correct copy thereof via **OVERNIGHT COURIER** in a sealed, prepaid envelope, addressed to the attorney as shown above, at the last-known office address of the attorney on the date set forth below.
- ☒ [X] by **E-MAILING** a full, true, and correct copy thereof to the attorney at the e-mail address shown above, which is the last-known e-mail address for the attorney, on the date set forth below.

DATED this 3 day of August, 2016.



Candace Carter, Paralegal to
Scott T. Schauermann, WSBA #25785